

UNITED STATES DISTRICT COURT

Jury demand date: Granted by Court 4-14-71

D. C. Form No. 106A Rev.

TITLE OF CASE		ATTORNEYS									
National Bank of Commerce, a National Banking Association, Tulsa, Oklahoma,		For plaintiff: Houston, Klein & Davidson, & C.H. March 900 Home Federal Building, Tulsa, Oklahoma, 74103 Hall & Estill, National Bank of Tulsa Bldg., Tulsa, Oklahoma, 74103									
vs											
American Insurance Company, a Foreign Corporation, and Firemen's Fund Insurance Companies, a Foreign Corporation,											
VS											
Jerry L. Biby		For defendant: John H. Tucker Rhodes, Hieronymus, Holloway & Wilson 2900 4th Natl Bank Bldg Tulsa, Okla 74119									
STATISTICAL RECORD		COSTS		DATE		NAME OR RECEIPT NO.		REC.		DISB.	
J.S. 5 mailed 6-1-70		Clerk		5-8-70		McSoud,		15 00		15 00	
J.S. 6 mailed 12-1-71		Marshal		5-14-70		C/D 49					
Basis of Action:		Docket fee									
Recovery on Bankers Blanket Bond		Witness fees									
Action arose at:		Depositions									

1970 DATE	PROCEEDINGS	Date Order or Judgment Noted
5-8-70	Complaint, filed. Summons Issued. e	
5-27-70	Summons returned, filed - served American Insurance Company, and the Fireman's Fund Insurance Companies, by serving the Oklahoma State Insurance Commissioner, Mr. Joe B. Hunt and paying him the sum of \$6.00 as required by law, at Oklahoma City, Oklahoma, on May 18, 1970. (Fee \$8.72 + \$6.00) b	
6-5-70	Motion for extension of time to file responsive pleading, filed. ds	
6-5-70	Order, that defendants are granted 30 days from 6-8-70 to file a responsive pleading, filed. (JCS-Cl) ds <i>Copies mailed</i>	
6-11-70	Plaintiff's requests for admissions of fact under Rule 36, filed. ds	
6-11-70	Plaintiff's interrogatories to defendants, American Ins. Co. and Firemen's fund Ins. Co., filed. ds	
6-23-70	Motion for extension of time to answer interrogatories and requests for admission of fact, filed. ds	
6-23-70	Order, that defendants be granted 20 days from 6-22-70 within which to file answer to interrogatories and requests for admission of fact, filed. (JHP-Cl) ds <i>copies mailed.</i>	
7-6-70	Motion of defendants for extension of time to file responsive pleadings, filed.	
7-6-70	Order filed, defendants granted 30 days from July 8, 1970 within which to file a responsive pleading. (Fred Daugherty - Judge) b (copies of the above order mailed to counsel) b	
7-14-70	Defendants Interrogatories to the pltf, filed. v	
7-13-70	Response to Requests for Admissions of Fact filed.h	
7-13-70	Answers to Interrogatories of Plaintiff Natl Bank of Commerce, a National Banking Association, to Defendant American Insurance Company, A foreign Corp., and Firemen's fund Insurance Companies, a foreign corp., filed.h	
7-22-70	Motion of defendant, Firemen's Fund Insurance Companies, to dismiss, filed. b <i>Sustained</i>	
7-22-70	Memorandum brief of defendant, Firemen's Fund Insurance Companies in support of motion to dismiss, filed. b	
7-23-70	Motion for extension of time to answer interrogatories, filed. ds	
7-23-70	Order, extending time to answer interrogatories to 30 days from July 29, 1970, filed. (FD-J) ds <i>Copies mailed</i>	
7-24-70	Ordered by the court that plaintiff respond to Firemen's Fund Ins. Companies Motion to Dismiss with brief within fifteen(15) days of the date hereof, filed. v <i>only deft.</i>	
7-27-70	Motion for extension of time to file responsive pleading, filed. m	
7-27-70	Order granting deft. American Ins. Co. 30 days from 8-8-70 to file responsive pleading, filed. (FD-J)m (copies mailed)	
8-13-70	Order of dismissal without prejudice as to Firemen's Fund Insurance Companies, filed and entered. (Fred Daugherty - Judge) b <i>copies mailed</i>	
8-28-70	Pltf's motion for extension of time to answer interrogatories, filed.m <i>mailed</i>	
8-28-70	Order filed, plaintiff granted 15 days from Aug. 28, 1970 within which to file answers to interrogatories. (Fred Daugherty-Judge)b <i>copies mailed.</i>	
9-4-70	Motion of defendant for extension of time to file a responsive pleading, filed. b	
9-4-70	Order filed, defendant American Insurance Company, is granted two (2) weeks from 9-7-70 within which to file a responsive pleading. (Fred Daugherty - Judge) b <i>copies mailed</i>	
9-14-70	Answers to interrogatories of defts, American Ins. Co., & Fireman's Fund Ins. Cos., to Natl. Bank of Commerce, etc., filed. m	
9-21-70	Answer of Deft. American Insurance Co., filed. v	

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DATE	PROCEEDINGS	Date Order or Judgment Noted
11-3-70	Case set for Pre-Trial on Friday, December 4, 1970 at 10:45 A.M. (FD-J) v	
12-4-70	Partial pre-trial hearing held, jurisdiction admitted, to be set for further pre-trial. (Fred Daugherty - Judge) b	
1-8-71	Ordered by the Court that, if the plaintiff opposes the defendant American Insurance Company's motion to make additional party defendant it files a response, with brief within 10 days from date. (Fred Daugherty - Judge)	
1-11-71	Ordered by the Court that this case is set for pre-trial hearing on January 26, 1971 at 2:15 P. M. (Fred Daugherty - Judge) b	
1-18-71	Response to Motion to Make Additional Party defendant and Brief in support thereof filed, by plaintiff.	
1-8-71	Defendant's motion to make additional party defendant, filed. b	
1-8-71	Brief in support of motion to make additional party defendant, filed. b	
1-26-71	Case called for pre-trial, defendant withdraws motion to make additional party withdrawn by defendant, plaintiff permitted to amend complaint by interlineation; defendant allowed to amend answer instant. Parties agree issues joined between parties. Defendant seeks leave to file 3rd party complaint, plaintiff files in open court objections to interrogatory No. 19, in open court. Case stricken from pre-trial assignment. (Fred Daugherty - Judge) b	
2-8-71	Motion of American Insurance Company, a foreign corporation to bring in Jerry L. Biby, third party defendant, filed. b	
2-8-71	Order filed making Jerry L. Biby a party of this action is granted and that third party summons and complaint be served upon Jerry L. Biby with copy of this order. (Fred Daugherty-Judge) copies mailed.	
2-10-71	Third Party Complaint making Jerry L. Biby, third party defendant, filed.	
2-18-71	General appearance and waiver of summons by Jerry L. Biby, filed. b	
2-24-71	Ordered by the Court that this case is set for pre-trial on Wednesday, March 3, 1971 at 11:30 A. M. (Fred Daugherty - Judge) b	
3-3-71	Ordered by the Court that Jerry L. Biby having not answered, this case is stricken from the pre-trial assignment of this date. (Fred Daugherty - Judge) b	
3-8-71	Defendant, American Insurance Company's motion to require plaintiff to answer interrogatory No. 19, filed. b & obj mailed	
3-8-71	Defendant, American Insurance Company's brief in support of motion to require plaintiff to answer interrogatory No. 19, filed. mailed	
3-23-71	Order, filed (FD-J) (Deft. American Ins. Co. motion & Brief are stricken for failure to comply with Local Rules). js & Pltf Obj to int.	
3-25-71	Pltf's objection to interrogatory, filed. m stricken from file, etc	
3-25-71	Brief in support of pltf's motion to strike interrogatory, filed. m mailed	
3-29-71	Defendant, American Insurance Company's motion to require plaintiff to answer interrogatory, filed. mailed	
3-29-71	Defendant, American Insurance Company's brief in support of motion to require plaintiff to answer interrogatory, filed. mailed	
4-5-71	Ordered by the Court that this case is set for pre-trial on Wednesday, April 14, 1971 at 10:40 A. M. (Fred Daugherty - Judge) b	
4-6-71	Order, filed, plaintiff to answer Defendant's Interrogatory No. 19 only insofar as it pertains to operations in which 3rd party defendant was involved in some manner, within 15 days from date. (Fred Daugherty-Judge) copies mailed b	
4-14-71	Answer to interrogatory No. 19 of defendant American Ins. Co to plaintiff, Natl Bank of Commerce, now Bank of Commerce, filed. ds	
4-14-71	Pre-trial hearing held, defendant granted jury trial, plaintiff to file brief in 15 days on coverage and abode and right to attorney fee,	

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DATE	PROCEEDINGS	Date Order or Judgment Noted
	defendant to file response in 10 days. Defendant 30 days to brief in regard to \$36,000.00 claim and knowledge of Biby's responsibility. Parties to file requested instructions within 45 days and exchange list of witnesses. (Fred Daugherty) Jerry L. Biby not present and not represented, adjudged in default. (FD-Judge)	
4-22-71	Pre-trial order of 4-14-71, filed - third-party defendant Jerry L. Biby, not present and not represented, adjudged in default, priefs to be filed. (Fred Daugherty - Judge) b	
4-29-71	Statement of loss provisions of Bankers Blanket Bond under which plaintiff is seeking recovery, filed. m <i>mailed</i>	
4-29-71	Brief in support of statement of loss provisions of Bankers Blanket Bond under which plaintiff is seeking recovery, filed. m <i>mailed</i>	
4-29-71	Brief in support of plaintiff's right to attorney fee, filed. m <i>mailed</i>	
4-29 =71	Defendants American Insurance Company's Memorandum Regarding proof of loss, filed. b	
5-7-71	Response of pltf. Natl. Bank of Commerce to deft. American Ins. Co's memorandum regarding proof of loss, filed. m	
5-10-71	Defendant, American Insurance Company's response to plaintiff's brief in support of statement of loss provisions of Bankers Blanket Bond under which plaintiff is seeking recovery, filed. ds <i>mailed</i>	
5-10-71	Memorandum in response to plaintiff's brief in support of claim for attorney fee, filed. ds	
5-14-71	Copy of Judge Daugherty's letter to plaintiff allowing it to file supplemental brief in regard to Plaintiff's claim of coverage under clauses (B) and (C) and defendant may respond within 10 days thereto. (Fred Daugherty - Judge) b	
5-14-71	Ordered by the Court that the defendant is granted additional time, to May 24, 1971 within which time to file brief in regard to plaintiff's knowledge precluding recovery. (Fred Daugherty-Judge) b Parties called and notified b	
5-20-71	Supplemental Brief of Plaintiff, National Bank of Commerce, in support of Statement of Loss of Bankers Blanket Bond under which Plaintiff is seeking recovery, filed. js <i>mailed</i>	
5-24-71	Defendant American Ins. Co. Memorandum regarding knowledge of Pltf terminating coverage of Biby, filed. r <i>mailed</i>	
5-26-71	Letter to Judge Daugherty from C. H. March, re to file requested instructions etc. Also, Letter from Judge Daugherty to Houston, Klein & Davidson and Rhodes, Hieronymus, Holloway & Wilson granting an extension until July 1, 1971 to file requested instructions and exchange lists of witnesses. After 6-3-71 the Court will inform the litigants by letter about the need to submit requested instructions of Deft's Bond. Filed. r	
6-1-71	Defendant, American Insurance Company's response to supplemental brief of plaintiff, Natl Bank of Commerce, in support of statement of loss of Bankers Blanket Bond under which plaintiff is seeking recovery, filed. ds <i>mailed to Judge</i>	
6-2-71	Plaintiff's Response to Deft., Amer. Ins. Co., Memorandum regarding knowledge of Pltf terminating coverage of Biby, filed. r <i>mailed to Judge</i>	
7-13-71	Letter dated 7-12-71 from Judge Daugherty to the attorneys, regarding that attorneys are requested to file instructions by 8-1-71 and to exchange lists of witnesses. Filed. r	
7-23-71	MINUTE ORDER: Ordered that Pltfs have an extension of time until 8-10-71 to file instructions and to exchange lists of witnesses. (FD-J)r	

DATE	PROCEEDINGS	Date Order or Judgment Noted
7-30-71	Letter dated 7-26-71 from John Tucker(Deft.) to J. D. asking for an extension of time for filing request instructions and exchanging the witness list, filed. r	
7-30-71	MINUTE ORDER: Ordered by the court, granting defts an extension of time until 8-10-71 to file instructions and to exchange lists of witnesses. (FD-J)r	
8-9-71	Plaintiff's list of witnesses filed. h	
8-9-71	Plaintiff's requested instruction filed. h <i>mailed</i>	
8-10-71	Deft. American Ins. Co's requested instruction, filed. m <i>mailed</i>	
8-24-71	Ordered that this case be set for Jury Trial on Tuesday, October 26 1971 at 10:00 A.M. (FD-J)r	
10-19-71	It is ordered by the Court that this case is stricken from the jury assignment of 10-26-71 pending settlement. (FD-J)m	
10-20-71	Depositions of J. R. Thomas and John T. Miller, on behalf of deft., taken by Millie Ballard on 5-11-71, filed. r	
11-3-71	Motion of plaintiff National Bank of Commerce to dismiss, filed. g	
11-3-71	Order dismissing, with prejudice as to the defendant, American Ins. Co., Filed and Entered. (FD-J)r (copies mailed to all attorneys)	

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